

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6425 of 1984

to

SPECIAL CIVIL APPLICATION No 6448 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHARDABEN M VASAVA

Versus

EX ENGINEER-P W D

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Appearance:

MR YV SHAH for Petitioners  
MS HARSHA DEVYANI for Respondent-State  
MR PV NANAVATI for Respondent-Insurance Company

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/12/97

ORAL JUDGEMENT

1. These special civil applications have arisen out of the common judgment of the Motor Accident Claims Tribunal (Main) Bharuch District at Bharuch dated 28th February, 1983. The other set of the first appeals and the special civil applications which have arisen out of

this very common judgment has been decided by this Court on 8th December, 1997.

2. These matters relate to one and the same motor vehicle accident and the only grievance made in these special civil applications by the learned counsel for the petitioners is also that the judgment of the learned Tribunal to the extent where 50% of the awarded amount has been deducted as the claimants were held to be contributory negligent to the extent of 50% in the accident, is wholly arbitrary.

3. This point has been dealt with and decided by this Court in First Appeal No.1438/84 and cognate matters and the judgment of the Tribunal has been ordered to be modified to that extent and the claimants were declared to be entitled for 100% of the amount of the awarded compensation. These matters are squarely covered by the decision of this Court given in the aforesaid first appeal and cognate matters.

4. In the result, these special civil applications are allowed and the judgment given in the Motor Accident Claims Petitions out of which these special civil applications have arisen is modified to the extent that the claimants-petitioners herein shall be entitled for full amount of the compensation as awarded. The claimants-petitioners shall be further entitled for interest on the enhanced amount of the compensation at the rate of 6% p.a. from the date of filing of the applications till the date of the award and 12% p.a. from the date of the award till the payment thereof. The respondents are directed to deposit the enhanced amount together with the interest thereon to be calculated at the rates as aforesaid from the date of filing of the applications till the date of the award and from the date of the award till the date of the payment thereof within a period of three months from the date of receipt of certified copy of this order. Rule is made absolute in all these special civil applications with no order as to costs.

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